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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,875	02/27/2004	Louis S. Osika	18032 USA	9151
27081	7590	06/08/2006		
OWENS-ILLINOIS, INC. ONE SEAGATE, 25-LDP TOLEDO, OH 43666			EXAMINER MIGGINS, MICHAEL C	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 06/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,875

Applicant(s)

OSIKA ET AL.

Examiner

Michael C. Miggins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

REJECTIONS WITHDRAWN

1. All of the 102 and 103 rejections set forth in the non-final rejection of 12/15/05, pages 2-3, paragraphs 1-4 have been withdrawn.

REJECTIONS REPEATED

2. There are no rejections repeated.

NEW REJECTIONS

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 12-13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Slat et al. (US 2003/0091769).

Slat discloses a molded plastic container or preform composed of a multilayer structure having a wall with at least one matrix resin layer and at least one intermediate resin layer, said intermediate resin being blended with an additive, said wall have at least one localized portion of predetermined geometry that is thicker than surrounding

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portions of said wall and within which said additive is discernable (36 from Fig. 3), said container or preform including a closed end, a sidewall extending from said closed end, a finish portion terminating said sidewall, an enlarged portion formed in at least one of said closed end, said sidewall, and said finish portion, wherein a barrier layer including an additive therein in at least one of visible light and ultraviolet light (paragraphs [0044] – [0047]), wherein said additive is more visibly pronounced in said enlarged portion (since the additive is dispersed uniformly in the barrier layers and the thickness of the barrier layers can vary at any given point and will thus be more concentrated in thicker portions, paragraph [0026]) (applies to instant claims 12-13 and 15).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slat et al. (US 2003/0091769) in view of Schottland (US 2003/0211288).

Slat fails to disclose wherein an embossed portion comprises a logo which is in a sidewall.

Schottland discloses wherein an embossed portion comprises a logo which is in a sidewall and contains a photoluminescent material (Fig. 3A, paragraph [0003]) in a

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container for the purpose of providing a more striking appearance and to convey information (applies to instant claims 3-4 and 10).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided wherein an embossed portion comprises a logo which is in a sidewall in the container or preform of Slat in order to provide a more striking appearance and to convey information as taught or suggested by Brady.

7. Claims 1-2, 4-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slat et al. (US 2003/0091769) in view of Schottland (US 2003/0211288).

Slat discloses a molded plastic container or preform composed of a multilayer structure having a wall with at least one matrix resin layer and at least one intermediate resin layer, said intermediate resin being blended with an additive, said wall have at least one localized portion of predetermined geometry that is thicker than surrounding portions of said wall and within which said additive is discernable (36 from Fig. 3), said container or preform including a closed end, a sidewall extending from said closed end, a finish portion terminating said sidewall, an enlarged portion formed in at least one of said closed end, said sidewall, and said finish portion, wherein a barrier layer including an additive therein in at least one of visible light and ultraviolet light (paragraphs [0044] – [0047]), wherein said additive is more visibly pronounced in said enlarged portion (since the additive is dispersed uniformly in the barrier layers and the thickness of the

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barrier layers can vary at any given point and will thus be more concentrated in thicker portions, paragraph [0026]) (applies to instant claims 1-2 and 5-9).

Slat fails to disclose wherein an embossed portion comprises a logo which is in a sidewall.

Schottland discloses wherein an embossed portion comprises a logo which is in a sidewall and contains a photoluminescent material (Fig. 3A, paragraph [0003]) in a container for the purpose of providing a more striking appearance and to convey information (applies to instant claims 3-4 and 10-11).

Therefore it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to have provided wherein an embossed portion comprises a logo which is in a sidewall in the container or preform of Slat in order to provide a more striking appearance and to convey information as taught or suggested by Brady.

The combined references provide an enlarged portion in an inner layer which contains a photoluminescent die because Slat clearly discloses that the die is located in the barrier layers and therefore when combined with Schottland it is clear that the protruding logo containing the photoluminescent is in the barrier layer. Therefore, the combined teachings of Slat and Schottland read on applicant's claims as written.

ANSWERS TO APPLICANT'S ARGUMENTS

8. Applicant's arguments filed 3/16/06 have been carefully considered but are moot in view of the new grounds for rejection set forth above.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

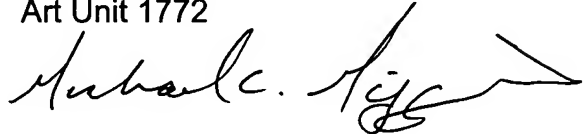
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM
May 30, 2006

Michael C. Miggins
Primary Examiner
Art Unit 1772

A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a long horizontal flourish extending to the right.